

CENTRAL FAX CENTER

APR 01 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Julian Crawford Serial No.: 10/634,166 Filed: 05/05/2003 For: EXPANDABLE TUBULAR FABRIC	Examiner: Bruenjes, Christopher P. Group Art Unit: 1772 Docket No.: 035470.00001
---	--

Mail Stop Amendment
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

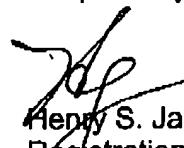
Dear Sir:

CERTIFICATE OF FACSIMILE TRANSMITTAL

I hereby certify that the following documents are being facsimile transmitted to the United States Patent Office (fax number 1 703-872-9306) on the date shown below:

1. Response under 37 CFR 1.112 to the PTO Action of 3/23/2005.

Respectfully submitted,



Henry S. Jaudon
 Registration No. 34,056
 McNair Law Firm, P.A.
 P.O. Box 10827
 Greenville, SC 29603-0827
 Telephone: (864) 232-4261
 Agent for the Applicant

Date: 4-01-05
 No. of Pages: 4

By: Jean D. Manson

GREENVILLE 208333v1

RECEIVED
CENTRAL FAX CENTER

APR 01 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: Julian Crawford	Examiner : Bruenjes, Christopher P.
Serial No.: 10/634,166	
Filed: 05/05/2003	Group Art Unit: 1772
For: EXPANDABLE TUBULAR FABRIC	
	Docket No.: 035470.00001

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Response under 37 CFR 1.112 to the PTO Action of 3/23/05

Restriction under 35 USC 121 between inventions is required.

- I. Claims 1-7 and 16-19 are said to be drawn to methods of forming a tubular fabric properly classified in Class 242, subclass 430.
- II. Claims 8-15 are said to be drawn to a tubular fabric properly classified in Class 428, subclass 36.1.

The inventions are said to be distinct if either or both of the following can be shown: (1) the process as claimed can be used to make other and materially different product; or (2) the product as claimed can be made by another and materially different process. In the instant case, the product is said to be makeable by a different process which consists of forming the thermoplastic filaments and the at least one elastic filament in separate processes. The complete manufacture of all filaments is followed by arranging the first thermoplastic filaments in an ellipsoid path and helically wrapping the at least one elastic thermoplastic filament around the thermoplastic filaments.

The restriction requirement as set for the above is respectfully traversed for the following reasons.

Class 242, subclass 430 is defined as apparatus or method for either (a) winding an elongated material directly onto a core to form a permanent product comprising a core and one or more retained coils or (b) winding apparatus or method whose utility is peculiar to use in a winder as defined in (a), which component is limited to a work holder, a material tension guide, guard, shuttle or machine frame.

The definition further provides that article winding provided for here is distinct from (b) winding with additional component or product modification (e.g. shaping, twisting, bonding--- or (c) wrapping components together or on an indefinite length core to form a textile strand, wire rope, or similar product provided in a textile class.

The above definition clearly precludes the method as set forth in claims 1-7 and 16-19 from Class 243 as they call for twisting, bonding and wrapping to form a textile product.

Claims 1-7 and 16-19 call for a method of moving formed yarns in an array about a shaped path, or mandrel, extruding at least one filament along a circular path about the moving array causing the extruded filament to bond with the moving array yarns securing them in position before moving from the shaped path or mandrel.

The proposed process does not produce the product of the claimed process. There is no bonding between the yarns and no retention of relative position of the two sets of yarns during wrapping. Accordingly, the requirements as set forth in MPEP 806.059f) have not been met.

It is, therefore, respectfully urged that the restriction requirement be withdrawn

and an action on the merits of all claims be given.

As required by (37 CFR 1.143) the claims of Group II, i.e. claims 8-15 to the product are elected with traverse.

Respectfully submitted,

Henry S. Jaudon
Registration No. 34,056
McNair Law Firm, P.A.
P.O. Box 10827
Greenville, SC 29603-0827
Telephone: (864) 232-4261
Agent for the Applicant

Page 3 of 3

GREENVILLE 208148v1

PAGE 4/4 * RCVD AT 4/1/2005 09:55:04 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-1/1 * DNI:8729306 * CSID:18642324437 * DURATION (mm:ss):01-06